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L3: Entry 6 of 7

File: USPT

Apr 2, 1996

DOCUMENT-IDENTIFIER: US 5504674 A

TITLE: Insurance claims estimate, text, and graphics network and method

Detailed Description Text (7):

The present invention may be embodied as an apparatus or method, and the following discussion incorporates both embodiments. Furthermore, the present invention comprises an apparatus or method for estimating insurance claims for damaged objects, with objects defined as an item or event involved in an insurance claim. Objects may include parts of a person's body or injuries or afflictions of a person's body, i.e. personal injuries; physical structures such as buildings; and automobiles and other vehicles. Damaged objects may include personal body injuries requiring simple or complex operations, transfusions, transplants, prosthetics, treatments, and the like; buildings having structural damage from fire, flooding, earthquakes, hurricanes, tornadoes, collisions from vehicles, and the like; or damaged vehicles having damaged parts. The apparatus or method for estimating insurance claims to damaged objects may include estimates for total loss and replacement of the damaged or lost objects.

Detailed Description Text (8):

The following description of preferred embodiments describes, without loss of generality, the invention as applied to insurance claims for damaged vehicles as the damaged objects of the insurance claims. It is understood that the invention may include other damaged objects, i.e. structural damage to buildings or personal body injuries, as well as damaged vehicles; and terms of art of vehicular insurance claims and repair are understood to be analogous to corresponding terms of art of other objects, i.e. vehicles are repaired in body shops, while other damaged objects are repaired or treated in repair locations; for example, personal injuries are repairs or treated in hospitals and the like, while building structural damage is repaired at the building site. Similarly, vehicular repairs involve vehicular body parts from vendor shops or salvage shops, while personal injuries involve medical devices, treatment regimens, donated organs, and the like; and repairs to building structures involve building materials from materials suppliers.

WEST**End of Result Set**

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L5: Entry 1 of 1

File: USPT

Sep 7, 1999

DOCUMENT-IDENTIFIER: US 5950169 A
TITLE: System and method for managing insurance claim processing

US PATENT NO. (1):
5950169

Detailed Description Text (29):

The vehicle data tab includes general descriptive information, options, and damage. Vehicle data also could include categories for additional considerations and condition. General descriptive information may be entered by the user such as vehicle identification number, year, make, type, body style, engine size, odometer reading, color, etc. A vehicle options selection allows the user to specify whether the damaged vehicle was equipped with a particular type of sunroof or other roof type, to specify whether it was equipped with power accessories, and to identify the type of transmission. Other options may also be included. Damage information includes the car's overall condition, i.e., driveable or not; areas of primary and secondary impact; and additional damage particulars. Again, the categories of information just enumerated are enterable by the user using the graphic user interface.

Detailed Description Text (41):

After creating or editing vehicle data, the user can go into the estimate tab of the workfile to create or edit an estimate. As shown in FIG. 8G, a user can either change estimate lines within the estimate 232, identify other charges such as towing or storage fees 234, or simply review the estimate totals for the car 236. When a user is editing or adding information to the estimate, several databases are accessed automatically. Preferably, these databases are stored in a memory device such as a hard drive attached to the computer a user is using. In one preferred embodiment the user may access an original equipment manufacturer (OEM) part database 238, a recycled part/salvage part database 240, a labor cost database 242 and an aftermarket part database 244. Suitable commercially available databases for these four databases are the MOTOR database put out by Hearst Corporation, the recycled part valuation (RPV) database of salvage parts compiled by CCC Information Services, Inc., the recycle assembly crash estimating guide (RACEG) developed by Hearst Corp, containing labor rates, and an aftermarket parts database compiled by CCC Information Services, Inc. The user may also compare the total estimate to a threshold value 246.

Detailed Description Text (60):

FIG. 16 illustrates one claim processing scenario that may be addressed with the presently preferred system and method with a damaged car driveable to a body shop employing a direct repair program (DRP). After damage to or loss of the car, the insured calls 401 the insurance company, and the insurance company suggests 402 a DRP body shop and informs the insured of car rental options. The insured drives 403 the car to the DRP body shop. The home office sends a claim assignment to the mailbox of the DRP in the Communications server. The body shop accesses the assigned claim and sets up a work file as described above. Using the method described above, the body shop prepares a computerized estimate. The body shop also takes electronic images of the car and keeps the estimate and images on local storage, for example a disk drive, or sends the estimate and images to a library for storing. The body shop then creates 404 a computer Estimate-Of-Record (EOR) and e-mails via the out box, as part of a work file, the EOR and electronic images to the insurance company. The insurance company receives 405 the e-mail of the EOR and the electronic images, prepares a work order, and e-mails, as part of a work file, an authorization number or work order number to the body shop. The body shop reviews 406 the estimate with the insured and receives repair authorization. The insured signs 407 the work order and schedules repair work with the

body shop.

Detailed Description Text (61):

The body shop searches 408 for Like Kind and Quality (LKQ) parts, using the procedure shown in FIG. 18 and/or searches 408 for new or aftermarket (A/M) parts, using the procedure shown in FIG. 19. The term LKQ is used herein to refer to recycled/salvaged parts. The body shop repairs 408 the damaged car using the procedure shown in FIG. 20.

Detailed Description Text (66):

After the Estimate Requires Supplements procedure is performed, the body shop continues with the repairs. The body shop searches 414 for Like Kind and Quality (LKQ) parts, using the procedure shown in FIG. 23, and/or searches 414 for new or aftermarket (A/M) parts, using the procedure shown in FIG. 24, and repairs 414 the damaged car, using the procedure shown in FIG. 22.

Detailed Description Text (71):

The body shop searches 438 for Like Kind and Quality (LKQ) parts, using the procedure shown in FIG. 23, and/or searches 438 for new or aftermarket (A/M) parts, using the procedure shown in FIG. 24. The body shop receives the necessary parts, confirms scheduled repairs, and repairs 438 the damaged car, using the procedure shown in FIG. 20.

Detailed Description Text (75):

The body shop keeps the estimate and electronic images on local storage, for example a disk drive, or sends the estimate and images to a library for storing; and reviews 458 the estimate with the insured. After the insured authorizes 459 payment for repairs, the insurance company sends 460 an authorization number or a work order number to the body shop, and the body shop searches 461 for Like Kind and Quality (LKQ) parts, using the procedure shown in FIG. 24, and/or searches 461 for new or after-market (A/M) parts, using the procedure shown in FIG. 25. The body shop then receives all of the necessary parts, confirms scheduled repairs, and repairs 461 the damaged car, using the procedure shown in FIG. 20.

Detailed Description Text (76):

In each of the described damage scenarios, whether the car is driveable or not driveable, and whether the body shop is a DRP shop or a non-DRP shop, as illustrated in FIGS. 16-20, upon authorization for repairs, the body shop searches and obtains the necessary parts for repairs and performs a repair scenario as illustrated in FIG. 20. The body shop repairs 465 the car. The body shop then takes 466 digital images of the repairs, storing these images on local storage such as, for example, a disk drive, and notifies 466 the insured that the repaired car is ready. In addition, the body shop e-mails 466 a notification to the insurance company that the repairs are completed.

Detailed Description Text (78):

As illustrated in FIG. 21, if the damaged car were deemed 470 a Total Loss, a Total Loss scenario is performed. If the body shop is a non-DRP shop 471, an appraiser/adjuster determines 473 if the car is a Total Loss, and the appraiser/adjuster e-mails 473 an estimate and electronic images to the insurance company. However, if the body shop were a DRP shop 471, then the body shop determines 472 if the car is a Total Loss, and the body shop e-mails 472 the estimate, images, and any acquired charges to the insurance company, with acquired charges including tow charges, tear-down charges, and storage charges.

Detailed Description Text (81):

An Estimate Requires Supplements scenario is shown in FIG. 22. A body shop finds 480 additional damage, takes 481 electronic images, and prepares 481 computerized supplemental estimate using the method described in FIGS. 8A-8L.

Detailed Description Text (84):

An appraiser/adjuster receives and reviews 492 e-mail images, including images of the LKQ parts to determine, if LKQ parts should be used. The body shop reviews 493 the dismantler's electronic parts images, determines which parts to order, and e-mails an order to the dismantler. The dismantler pulls 494 requested parts from his/her inventory, prepares a parts order, and arranges delivery of parts to the body shop. Upon receipt of the delivered parts, the body shop inspects 495 the parts for damage, correctness, and completeness. The body shop e-mails 495 to the dismantler directions to re-ship any alternative parts, and arranges to return any damaged parts.

Detailed Description Text (87):

The parts dealer or A/M distributor pulls 555 the available parts, prepares a parts order, and arranges delivery to the body shop. Upon delivery, the body shop inspects 556 the parts for damage, correctness, and completeness. The body shop e-mails 556 a message to the dealer to re-ship any alternative parts, and the body shop arranges to return any damaged parts to the dealer.

Detailed Description Text (89):

As illustrated in FIG. 25, the body shop may also perform a scenario with a damaged car abandoned 560 by the owner/insured. If the car were abandoned 561 before the body shop begins repairs due to the body shop having never been authorized to begin repairs, then the body shop takes 562 electronic images of the car, and attempts to lien sell the car. The body shop accordingly E-mails 563 images and information about the car to salvage yards, other body shops, etc. The body shop also contacts 564 a specific salvage yard, and perform 569 the Total Loss Scenario as shown in FIG. 21.

US Reference Patentee Name (37):

Chang et al.

US Reference Group (37):

5428729 19950600 Chang et al. 395/153

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L3: Entry 1 of 7

File: USPT

Aug 1, 2000

US-PAT-NO: 6098070

DOCUMENT-IDENTIFIER: US 6098070 A

TITLE: Case management for a personal injury plaintiff's law office using a relational database

Full	Title	Citation	Front	Review	Classification	Date	Reference	Sequences	Attachments	Claims	RWC	Draw Desc	Image
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☐ 2. Document ID: US 5782196 A

L3: Entry 2 of 7

File: USPT

Jul 21, 1998

US-PAT-NO: 5782196

DOCUMENT-IDENTIFIER: US 5782196 A

TITLE: Sealing openings in hulls of vessels

Full	Title	Citation	Front	Review	Classification	Date	Reference	Sequences	Attachments	Claims	RWC	Draw Desc	Image
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☐ 3. Document ID: US 5712984 A

L3: Entry 3 of 7

File: USPT

Jan 27, 1998

US-PAT-NO: 5712984

DOCUMENT-IDENTIFIER: US 5712984 A

TITLE: System for funding future workers' compensation losses

Full	Title	Citation	Front	Review	Classification	Date	Reference	Sequences	Attachments	Claims	RWC	Draw Desc	Image
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☐ 4. Document ID: US 5613072 A

L3: Entry 4 of 7

File: USPT

Mar 18, 1997

US-PAT-NO: 5613072

DOCUMENT-IDENTIFIER: US 5613072 A

TITLE: System for funding future workers compensation losses

Full	Title	Citation	Front	Review	Classification	Date	Reference	Sequences	Attachments	Claims	RWC	Draw Desc	Image
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☐ 5. Document ID: US 5562064 A

L3: Entry 5 of 7

File: USPT

Oct 8, 1996

US-PAT-NO: 5562064

DOCUMENT-IDENTIFIER: US 5562064 A

TITLE: Apparatus and method for assessing damage and patching openings in hulls of marine vessels

Full	Title	Citation	Front	Review	Classification	Date	Reference	Sequences	Attachments
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KWIC	Draw Desc	Image
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☐ 6. Document ID: US 5504674 A

L3: Entry 6 of 7

File: USPT

Apr 2, 1996

US-PAT-NO: 5504674

DOCUMENT-IDENTIFIER: US 5504674 A

TITLE: Insurance claims estimate, text, and graphics network and method

Full	Title	Citation	Front	Review	Classification	Date	Reference	Sequences	Attachments
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KWIC	Draw Desc	Image
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☐ 7. Document ID: US 4858126 A

L3: Entry 7 of 7

File: USPT

Aug 15, 1989

US-PAT-NO: 4858126

DOCUMENT-IDENTIFIER: US 4858126 A

TITLE: Method and apparatus for quantitative evaluation of back health

Full	Title	Citation	Front	Review	Classification	Date	Reference	Sequences	Attachments
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KWIC	Draw Desc	Image
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Opposition to NAIC policies at small co. meeting

National Underwriter, Erlanger; Apr 10, 1995; [Mulcahy, Colleen](#);**Edition:** Life & health/financial services ed.**Volume:** 99**Issue:** 15**Start Page:** 23**ISSN:** 08938202**Subject Terms:** [State regulation](#)
[Insurance commissioners](#)
[Criticism](#)
[Associations](#)**Classification Codes:** 9540: *Non-profit institutions*9190: *US*8200: *Insurance industry*4310: *Regulation***Geographic Names:** US**Companies:** [National Association of Insurance Commissioners](#)**Abstract:**

Life insurance executives and some regulatory officials last week castigated the NAIC's heavy-handed approach to accreditation and pointed to an emerging structural shift in insurance regulation. Speaking at the spring meeting of the National Alliance of Life Companies, Arizona insurance director Chris Herstam said the NAIC has encroached on the ability of state legislatures to independently make public policy regarding the business of insurance.

Full Text:*Copyright National Underwriter Company Apr 10, 1995*

TUCSON—The burgeoning state backlash against the National Association of Insurance Commissioners continued last week as life insurance executives and some regulatory officials castigated the association's heavy-handed approach to accreditation and pointed to an emerging structural shift in insurance regulation.

"It's time for a slowdown with regard to accreditation," Arizona Insurance Director Chris Herstam told members of the National Alliance of Life Companies during the group's spring meeting here last week.

The NAIC "has in my opinion encroached on the ability of state legislatures to independently make public policy relative to the business of insurance," he warned.

Fundamentally, NAIC is now caught in a power struggle with the National Conference of Insurance Legislators, which recently proposed creation of an interstate compact run by legislators to govern NAIC, noted Robert A. Bailey, first deputy commissioner of the Michigan Insurance Bureau.

"Both are trying to strengthen their position to do things they do not have full authority to do as private trade associations," he suggested.

"The industry has been focusing more on details of things like the model investment law and not fully appreciating what changes in the regulatory structure might do," he said.

The proposed model investment law is nevertheless a key issue for carriers, industry officials noted.

As written it fails to take a "prudent person" approach to investment management and thus would "hamper the ability of the life insurance industry to compete with other [financial] intermediaries," suggested Richard Holt, managing director with Scudder Stevens & Clark in Chicago.

In fact, however, NAIC cannot move toward a prudent person standard because it is incapable of infusing the regulatory process with discretion, Mr. Bailey suggested.

"If the NAIC allows commissioners to use discretion, each state would be different," he said. "It would be state regulation not NAIC regulation."

Utah Insurance Commissioner Robert Wilcox dismissed that position, however.

"If the direction that the NAIC seems to be taking does not fit the direction that you as a regulated industry thinks makes sense, then it's time to be talking to the commissioners," he argued. "We have the ability to make the NAIC anything we want it to be."

On the model investment law, that may mean no action is the best course, industry officials said.

"The process has been overtaken by events," suggested Lorin Fife, senior vice president and general counsel at Sun America in Los Angeles. Considering the onset of such things as risk-based capital requirements and asset valuation reserves, "we're not sure what a model investment law would add at this point," he noted.

The model investment law debate may thus have become "an exercise in futility," noted Douglas Barnert, with Barnert and Associates in New York. "Isn't it time for the NAIC to back off?"

If there is any good news in all the controversy, it's that 20 new commissioners "who do not share the same orientation as some of our dear old friends" have brought a fresh perspective to the NAIC, noted Greg Scandlen, executive director at the Council for Affordable Health Insurance in Washington, D.C.

Though the rookie regulators were unable to derail the NAIC's latest version of small group health reform, they nevertheless provide "voices that support free market solutions," he said. "That's encouraging."

The small group model they fought against is far from encouraging however, warned Randal Suttles, chief financial officer with Golden Rule Ins. Co. in Indianapolis.

The new model imposes community rating and guaranteed issue provisions on groups down to one life, and it does so not only on basic and standard plans, but on every small group plan a company markets, he explained.

Even more disturbing, he noted, is that NAIC intends to use the small group bill as a model for individual insurance reform which it hopes to finalize by December.

"If there is a message in all of this it's that it is a mess," Mr. Suttles said. In such an environment, he noted, "you're crazy to sell individual health insurance."

Golden Rule is in favor of guaranteed issue health insurance, just not in the private market, he continued. State high risk pools, even when they assess private companies to help pay claims, are where such policies should be handled, he said.

Mr. Scandlen warned the industry not to be complacent on the matter, suggesting that the guaranteed issue debate is no longer limited to health insurance.

"There are folks out there who despise the insurance industry, and the distinction between life and health is meaningless to them," he said. "I would anticipate a run at the life industry in the next two to three years just as there has been with health care."

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Article 9 of 50

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YOU HAVE TO PREPARE FOR TIME ON THE KEYBOARD MOST PEOPLE IGNORE RSI SIGNS UNTIL DAMAGE IS DONE

St. Louis Post - Dispatch; St. Louis, Mo.; Oct 14, 1998; [Chicago Tribune](#);

Sub Title: [FIVE STAR LIFT Edition]

Start Page: C8

Abstract:

That is, until it's too late: Until carpal tunnel syndrome or another repetitive strain injury dramatically alters the digital playing field. That's when most people realize that sitting before a monitor (usually too closely) for numerous hours each day (without enough breaks) in unhealthful postures (shoulders hunched forward) can be harder on muscles, joints, nerves and (oh so tender) tendons than any three sets of tennis or a session on the stair climber.

Repetitive strain injury is the blanket term for a number of medical conditions caused by overuse or misuse of body parts. Perhaps best known is carpal tunnel syndrome, a median nerve injury that can lead to debilitating wrist, thumb and finger pain. It makes up more than 40 percent of computer-related RSIs. Tendinitis is another common condition, an inflammation of the elbow, wrist, hand or shoulder socket not altogether different from injuries that shorten the careers of baseball pitchers.

In any case, the medical terms are technically challenging for even the most computer-savvy operator. Carpal tunnel syndrome, radial tunnel syndrome (arm and forearm) and cubital tunnel syndrome (elbow) are some of the nerve disorders. Muscle and tendon injuries have proper names like myofascial pain, tenosynovitis, extensor tendinitis and de Quervain's disease. Other conditions are cervical radiculopathy, focal dystonia and thoracic outlet syndrome.

Full Text:

Copyright Pulitzer Publishing Company Oct 14, 1998

TECHNOLOGY & YOU

Sammy Sosa wouldn't dream of going into a baseball season - or his next record-breaking game - without enough batting practice. Even bowlers don't roll a league series without some trial balls.

So why doesn't everyone who works or plays on a computer think about getting ready for a day's use or consider any regular routine to keep in keyboard shape or uplink personal computing with personal health?

That is, until it's too late: Until carpal tunnel syndrome or another repetitive strain injury dramatically alters the digital playing field. That's when most people realize that sitting before a monitor (usually too closely) for numerous hours each day (without enough breaks) in unhealthful postures (shoulders hunched forward) can be harder on muscles, joints, nerves and (oh so tender) tendons than any three sets of tennis or a session on the stair climber.

Here's your chance to reverse the trend. This is your game plan for staying out of trouble - and not having to wear

those wrist braces becoming all too common at the office. Just pretend you are a quarterback reading the defense before the linebackers and free safety can begin blitzing.

Doctors use sports comparisons in describing RSI.

"In contrast to athletes, computer users are too frequently in a static position," said Dr. Margit Bleecker at the Center for Occupational and Environmental Neurology in Baltimore. "There is distinct lack of movement. All you really do is repeat the same motion over and over with a precious few selected muscles."

Repetitive strain injury is the blanket term for a number of medical conditions caused by overuse or misuse of body parts. Perhaps best known is carpal tunnel syndrome, a median nerve injury that can lead to debilitating wrist, thumb and finger pain. It makes up more than 40 percent of computer-related RSIs. Tendinitis is another common condition, an inflammation of the elbow, wrist, hand or shoulder socket not altogether different from injuries that shorten the careers of baseball pitchers.

Back injuries are considered part of the RSI count for worker's compensation purposes, representing more than two-thirds of annual **claims**. But roughly 350,000 to 500,000 RSI **claims** are made for upper- **body** pain and disability, mostly associated with computer use. Statistics vary depending on whether workers, employers, **insurance** companies, private interest groups or government agencies do the reporting.

In any case, the medical terms are technically challenging for even the most computer-savvy operator. Carpal tunnel syndrome, radial tunnel syndrome (arm and forearm) and cubital tunnel syndrome (elbow) are some of the nerve disorders. Muscle and tendon injuries have proper names like myofascial pain, tenosynovitis, extensor tendinitis and de Quervain's disease. Other conditions are cervical radiculopathy, focal dystonia and thoracic outlet syndrome.

The usual response is a shrug and mouse drag-and-click. Next topic, and it better not be another Web site about typing technique (don't twist your hands) or wrist position (keep them above the rest pads if you have them).

Neal Taslitz doesn't want to be in the I-told-you-so business. He sells ergonomic furniture and work station designs as owner of BackCare Corp. in Chicago. He seeks out leading researchers to evaluate some of the new products he markets, especially accessories such as movable arm rests that can promote correct posture at reasonable cost. He has helped petition the federal government to create more formalized strategies to prevent RSIs. He answers dozens of phone calls each week from prospective customers who have too many employees missing days of work - or their own RSI problems.

He is in the I-told-you-so business, like it or not.

"Most problems are preventable," said Taslitz, executive director of the Chicago-based National RSI Association. "Typically, no one is trained in proper physical technique for using a computer. The computer is unpacked from its boxes and set up, then you just start keyboarding."

To be sure, many companies have appointed in-house ergonomics experts. But any advice is usually applied once a problem arises. The best-informed individuals tend to be workers with painful conditions that have crossed the line between bothersome and permanent nerve damage. There is a lesson for you in listening to their troubles - before you have any problems, or at least when any related sensations are mild.

For example, symptoms of RSIs include weakness of the hands and forearms, fatigue, tingling, numbness, heaviness in the arms, increasing clumsiness, difficulty opening and closing hands, stiffness in the hands and cold hands. Early warning signs often come during sleep. Patients wake up for months with numb hands or heavy arms without ever making the RSI connection.

Shooting wrist pain is one result, though twinges in the shoulder or neck might be the first hint of trouble - that blindside blitz - and a chance to prevent the worst-case scenario.

Despite the complexity of technology, the game plan for beating RSI is simple.

"The single best thing a computer user can do is work on posture," Bleecker said. "People tend to tilt their shoulders forward and chin toward the screen. They lean on armrests of their chairs. All of this isolates the wrists rather than allowing you to type with your entire arms."

Bleecker is a specialist in preventing RSIs. She is comfortable discussing the scientific particulars of carpal nerve damage and state-of-the-art treatments for RSIs (surgery is an option for advanced cases; ultrasound is a cutting-edge option with promising results reported in the *British Medical Journal* earlier this year). Her knowledge of ergonomics is better than most top-flight worksite consultants to corporations.

But what Bleecker most prefers to do is talk to computer users experiencing minor symptoms of discomfort before they turn into long-term patients with long-term pain.

For starters, Bleecker said most of the business and technology community has it wrong.

"The primary intervention in offices is developing a totally adjustable work station," Bleecker said. "But you can have all of the latest high-tech equipment and accessories in the world and still end up with major problems."

"You can still lean too far forward or incorrectly rest your elbows on the armrests while using the keyboard in a thousand-dollar ergonomic chair," said Alan Hedge, a leading researcher and professor of ergonomics at Cornell University in Ithaca, N.Y. "It might be less high-tech, yet improving your posture is highly effective."

While improved positioning at the computer is literally and virtually overlooked, Hedge said hardware-makers also have contributed greatly to the problem. Seems our keyboards are sloped in the wrong direction, back to front, making it even harder on the wrists. He has conducted several impressive studies showing a "reverse-slant" keyboard position can alleviate all sorts of RSI symptoms.

The idea was originally developed in the Tasmania region of Australia in during the mid-1980s. Government officials commissioned researchers to explore whether "changing the geometry of the work station" would benefit the disturbing number of workers with carpal tunnel symptoms.

"Six or seven years ago, most everybody thought I was crazy" for pursuing field experiments about reverse-slant keyboards, Hedge said. "Now it is a de facto standard at ergonomic conferences."

Yet at a price tag of about \$150, such keyboards are not very common. Hedge said manufacturers don't figure such a product can compete with standard keyboards that can cost less than \$50.

If you are skeptical, try this at-home experiment, Hedge said: Place your keyboard in your lap and simulate typing. There is less pressure on the wrists, the motion seems more natural. Then put your keyboard back in its typical spot. Tension in the wrists, thumbs and fingers are likely to be noticeably different."

[Illustration]

GRAPHIC, PHOTO; Caption: Graphic with Photos - Straighten up and type right (Graphic contained 10 photos, in five pairs of "Do" and "Don't" illustrating each section of the graphic) There are five critical regions of the body to check when evaluating potential repetitive strain injuries. **ELBOWS** Do (Photo) Maintain a 90-degree angle Don't (Photo) Overextend 1 - Try to maintain a 90-degree angle in the bend of the elbows or keep them slightly more open. 2 - Try not to lean your elbows on the chair armrests; it doesn't allow for the proper involvement of the entire arms and puts too much strain on the wrists and hands. 3 - Don't persistently flex the elbows while working. Rest by holding your arms at your sides. **WRIST/HAND** Do (Photo) Keep wrists relaxed, natural Don't (Photo) Rest your wrists while typing 1 - Don't rest your wrist on the rest pad below your keyboard while typing. The wrist rest is for breaks. If your wrists are touching the rest pad, your posture is dipping incorrectly. Some experts say resting the meaty parts of the palms here is acceptable. 2 - The keyboard should be low enough so you don't cock the wrists, which adds compression. You can't hold it in your lap, but try for closest simulation - without jamming your legs at all. Lower your armrests, using your desk or table to rest entire arms during breaks. 3 - Some experts suggest moving the mouse above the keyboard if possible to avoid wrist extension with additional torque and twisting when it is placed to the side. 4 - If you do not have active RSI symptoms, gently stretching the wrists and hands with a prayer-position stretch can be beneficial. simply press the palms together with the fingers lying flat on opposite digit. Gently apply pressure to one hand and wrist for about 15 to 30 seconds, then reverse the pressure. Don't overdo it. Simply turning palms together (quarter-turn of the wrist) during breaks also relieves tension in the nerves. **FINGERS/THUMB** Do (Photo) Keep fingers gently flexed Don't (Photo) Overextend to reach the keys 1 - Don't strike the

key with too much force. You also want to avoid letting the fingers become straight while typing or moving to function keys. 2 - Ergonomics professor Alan Hedge said most people align themselves to be in the middle of their expanded keyboard (with function keys on the right) rather than in the middle of the letters keypad on which they will do most of their work. Consequently, the left hand works too hard to reach letters. 3 - When working with a mouse, be aware of tension in the fingers and thumb. For example, try not to flex the index finger while clicking or rolling. Move the entire hand so the thumb isn't extensively raised or strained when striking the mouse button. NECK/UPPER BACK/SHOULDERS Do (Photo) Lean shoulders back Don't (Photo) Lean forward 1 - Make sure your shoulder blades make contact with the top of your chair. If your chair isn't high enough to reach any part of the shoulder blade, you have the wrong chair. If you can't read the monitor without leaning forward, check your eyeglasses prescription or adjust type size and screen background for easier reading. 2 - Ask your office manager for a headset. Dr. Margit Bleecker considers this a must-change for anyone with even mild repetitive strain injury symptoms. It allows you to more consistently maintain proper posture. 3 - The height of your monitor should allow your neck to remain in a neutral position (no feeling of strain). 4 - A reverse-slant keyboard, which feels the same as if you were holding the keyboard in your lap, is best for neutralizing your upper body posture (your primary goal). The keyboards are not yet widely available; for now, don't extend the legs at the back of your keyboard. 5 - Speaking of breaks, the act of typing allows natural pauses. Use them to relax your arms at your sides. If you are surfing the Net, make it a point to frequently do the same. LOWER BACK Do (Photo) Rest lower back against seat Don't (Photo) Sit forward in the seat pan 1 - Keeping the shoulders back is a great help. You also want to make sure your chair provides lumbar support with gentle but consistent cushioning. 2 - A foot rest or stool can provide relief.

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Medical monitoring: A new breed of tort claim identified

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[Headnote]

"Medical monitoring" has recently become a popular theory of recovery for plaintiffs in United States product liability litigation, making appearances in a number of high profile product liability cases. Fern P O'Brian, of [Arnold & Porter](#), tracks down and examines this new species of tort claim

Medical monitoring claims seek recovery for the costs of medical tests and examinations resulting from exposure to toxic substances whose potential effects are not immediately detectable. Thus, numerous plaintiffs who allegedly have been exposed to a product that allegedly causes harm, but who are currently healthy and, indeed, may remain healthy indefinitely, are seeking to make claims for medical monitoring. Because medical monitoring is designed to detect disease or injury in the "worried well", plaintiffs contend that proof that the defendant's product caused actual physical injury is unnecessary.

Medical monitoring is an attractive theory to plaintiffs, who view it as a means of avoiding the strictures of the traditional tort law requirements of proving causation and injury. Plaintiffs perceive that if they can transform potential future injuries into medical monitoring programs financed by defendant product manufacturers, particularly in class action cases involving thousands or millions of plaintiffs, they can enhance their leverage over defendants. Recently, some United States courts have recognized medical monitoring claims in product liability cases. At the same time, however, these courts are imposing limits that may circumscribe attempts by plaintiffs to expand medical monitoring into an everyday cause of action in US product liability litigation.

Development of a new tort claim

In the United States, the statutory and decisional law of the individual states, rather than federal law, governs most tort claims. Medical monitoring claims based on state common law tort principles first arose, and have since become a staple, in so-called toxic tort cases involving exposure of residents to environmental contaminants. For example, in *Ayers v Township of Jackson*, 525 A2d 287, 311-12 (NJ 1987), the New Jersey Supreme Court held that residents who claimed that their well water was contaminated by a nearby landfill could recover as a "compensable item of damages" the costs of medical monitoring, despite the absence of current physical injury because it was "consistent with the public interest in early detection and treatment of disease". See also *Bourgeois v AP Green Indus, Inc*, 716 So 2d 355, 360 (La 1998), which allowed shipyard employees exposed to asbestos to bring action for medical monitoring, and *Burns v Jaquays Mining Corp*, 752 P2d 28, 33-34 (Ariz Ct App 1988) in which a medical monitoring program for residents exposed to asbestos fibres from nearby plant was instituted.

Other courts subsequently endorsed medical monitoring as a fully-fledged cause of action, rather than an element of damages. Thus, the Supreme Court of Utah in *Hansen v Mountain Fuel Supply*, 858 P2d 970, 982 (Utah 1993) held that plaintiffs who had been exposed to toxic substances could assert a claim for medical monitoring, but,

perhaps recognizing the danger in permitting lump sum damages, suggested that recovery for such a claim be limited to a court-supervised fund for testing or a court-ordered payment of insurance costs by defendants. Similarly, the Pennsylvania Supreme Court, following the earlier predictions of the United States Court of Appeals for the Third Circuit in *In re Paoli RR Yard PCB Litig*, 916 F2d 829, 849 (3d Cir 1990), recognized the availability of a medical monitoring cause of action. In *Simmons v Pacor, Inc*, 674 A2d 232, 239 (Pa 1996) medical monitoring was recognized as a viable cause of action under Pennsylvania law. See also *Potter v Firestone Tire & Rubber Co*, 863 P2d 795, 800 (Cal 1993) which recognized medical monitoring costs as a "compensable item of damages in a negligence action".

Those courts that have accepted medical monitoring have distinguished it from claims for other types of "speculative" harm, such as increased risk of future harm or fear of future disease, reasoning that medical monitoring compensates for present injury in the form of additional testing that would have been unnecessary in the absence of toxic exposure. Further, these courts have reasoned that medical monitoring programs promote the early detection of disease, provide immediate compensation that would otherwise prove difficult for plaintiffs to obtain, and "avoid[] the potential injustice of forcing an economically disadvantaged person to pay for expensive diagnostic examinations necessitated by another's negligence". *Hansen v Mountain Fuel Supply*, 858 P2d at 976.

See also *Redlands Soccer Club v Department of the Army*, 696 A2d 137, 145-46 (Pa 1996), which quoted *Hansen* for the proposition that requiring an individual to pay would be unjust; *Potter v Firestone Tire & Rubber Co*, 863 P2d at 824, which held that it would be "inequitable for an individual wrongfully exposed to dangerous toxins, ... to have to pay the expense of medical monitoring" and *Ayers v Township of Jackson*, 525 A2d at 312, where it was found that "[i]t is inequitable for an individual exposed to dangerous toxic chemicals ... to have to pay his own expenses".

Although there is significant variation in courts' formulation of the elements of an independent cause of action for medical monitoring, courts uniformly have imposed stringent requirements to prove entitlement to medical monitoring, including:

Significant exposure to a proven toxic substance;

The exposure has resulted in a significantly increased risk of serious disease or injury;

The exposure was caused by the defendant's negligence;

Medical tests exist for early detection before the disease becomes symptomatic;

Early detection of the disease is beneficial and can alter the course of the illness; and

The tests are different from those that would ordinarily be required for the plaintiff and are recommended by qualified physicians according to contemporary scientific principles.

Despite some courts' willingness to validate recovery for medical monitoring, many courts have refused to do so. The US Supreme Court, in the context of a federal railroad worker's claim, refused to create a federal common law cause of action for medical monitoring damages in a lump sum amount, stating that such a claim would be beyond the bounds of "evolving common law." *Metro North Commuter RR Co v Buckley*, 117 S Ct 2113, 2122 (1997). Although state common law governs most tort claims, the Federal Employees Liability Act (FELA) 45 USC 5 et seq., which the Supreme Court was addressing in *Metro North*, involves federal law, which is not binding on the state courts. Nonetheless, the federal courts look to the **body** of state common law in interpreting FELA, and the US Supreme Court's interpretation of state tort law is persuasive authority which state courts may be expected to consider. Indeed, the Supreme Court divined reluctance among the state courts to unleash a full-blown tort **claim** without the traditional limits of proof of physical **injury** and causation, noting that state "courts, while recognizing that medical monitoring costs can amount to a harm that justifies a tort remedy, have suggested, or imposed, special limitations on that remedy". *Metro North Commuter RR Co v Buckley*, 117 S Ct at 2122. Moreover, the Supreme Court pointed to the difficulties and uncertainty in identifying what additional medical monitoring is necessary beyond that which is recommended for the average person, and expressed concern about the potential flood of "less important" cases that could give rise to unquantifiable and probably very expensive medical monitoring liability. The Court further noted that the availability of **insurance** to cover most forms of testing, and the resultant potential for double recovery, also counselled against creation of a new tort **claim**. See also *Metro North Commuter RR Co v Buckley*, 117 S Ct at 2122-24.

Other courts similarly have refused to adopt medical monitoring theories, relying on the rationale that the absence

of physical injury precludes recovery. See, among other cases, *Ball v Joy Tech, Inc*, 958 F2d 36, 39 (4th Cir 1991), which affirmed the dismissal of medical monitoring claims in toxic tort case where no actual injury was shown; *Witherspoon v Philip Morris, Inc*, 964 F Supp 455, 467 (DDC 1997) which dismissed the smoker's medical monitoring claim because this tort "requires that the plaintiff have a present injury"; and *Thomas v FAG Bearings Corp*, 846 F Supp 1400, 1410 (WD Mo 1994) where the claim in groundwater contamination suit was dismissed because plaintiffs could not "present any evidence of actual injury to support claims for future costs of medical monitoring".

Plaintiffs' attempts to certify medical monitoring class actions

Most recently, plaintiffs have attempted to magnify the potential impact of medical monitoring claims by seeking court approval of either medical monitoring or medical "screening" class actions, whereby numerous such claims are aggregated into one mass tort case. In *Barnes v American Tobacco Co*, No 971844, 1998 WL 783960 (3d Cir Nov 12, 1998), a medical monitoring class action of uninjured smokers was denied, and the same happened in *Arch v American Tobacco Co*, 175 FRD 469, 484-85 (ED Pa 1997). Plaintiffs argue that the barriers to class certification in mass product liability claims that have recently been erected by such recent decisions as *Amchem Prods, Inc v Windsor*, 117 S Ct 2231, 2247-48 (1997) (requiring that settlement-only class action still meet numerosity, commonality, typicality, and adequacy of representation requirements) should not apply to medical monitoring claims.

Courts often have, however, been unwilling to certify such wide-ranging classes, finding that individual rather than common issues predominate in addressing medical monitoring laws. Thus, in *Barnes*, for example, the Third Circuit refused to certify a medical monitoring class comprised of smokers claiming addiction in light of the numerous individual issues involved. Courts have also reasoned that because medical monitoring is not truly a form of injunctive relief, but is instead a form of damages for future potential injury, certification under the provisions of Federal Rule of Civil Procedure 23(b)(2) (providing for certification of injunctive classes) is inappropriate. (See *Barnes v American Tobacco Co*, 1998 WL 783960, at *18. Recently, one state court has refused to certify a medical monitoring class, reasoning that under New Jersey laws medical monitoring is a form of damages rather than injunctive relief. In *re Diet Drug Cases*, Case Code No 240 (NJ Super Ct Oct 9, 1998).

Despite these arguments, a few medical monitoring class actions have been certified. In *Scott v American Tobacco Co*, No 98-CA-0452, 1998 WL 802260 (La Ct App Nov 4, 1998), for example, the court approved a medical monitoring class action for smokers who wished to participate in a smoking cessation program and to obtain monitoring of medical conditions to determine whether they may suffer in the future from smoking related injuries. Similarly, in *Earthman v American Home Prods Corp*, No 97-1003790-CV (Tex Dist Ct Oct 14, 1998) the court certified a class action, holding that plaintiffs who had taken certain diet drugs could state a claim for medical screening to detect whether they had suffered certain heart damage.

The future of medical monitoring claims

Whether the Supreme Court's view in *Metro North* that medical monitoring claims are on the fringe of developing law will remain dominant is unclear. What is clear is that plaintiffs bringing product liability cases in the United States will continue to press for the expansion of medical monitoring. Nonetheless, in addition to arguing that medical monitoring claims should not be recognized, defendant product manufacturers can defend medical monitoring cases by developing defences based on the stringent requirements that the toxic exposure be significant, that the risk be substantial and caused by the defendant's wrongdoing and that the tests or procedures recommended be different from those that would be prescribed under recognized medical standards. Indeed, the relatively few reported decisions on medical monitoring claims indicate that they will fail on the merits, whether resolved on pretrial motions or at trial. See, eg, *In re Paoli RR Yard PCB Litig*, 113 F3d 444 (3d Cir 1997).

The courts' limitations on the scope of medical monitoring are helpful in defending the merits of medical monitoring claims. Nonetheless, the litigation of these issues is likely to be expensive and time-consuming because they involve significant medical and scientific issues. "Minitrials" concerning the admission of expert witness testimony on the necessity and validity of medical monitoring under the *Daubert v Merrell Dow Pharms, Inc*, 509 US 579 (1993) standard in the federal courts and other similar standards in the state courts are not uncommon. Moreover, because the legal standards for admissibility of expert witness testimony necessary to support such claims remain uncertain and have been inconsistently applied in the courts, defendant product manufacturers may be exposed to significant legal and financial exposure even in cases where the medical monitoring or liability claim is weak. Thus, some cases involving medical monitoring claims have resulted in settlements including provisions for medical screening programs to be administered by courts or as part of a lump sum payment.

This potentially significant financial risk may be vastly compounded if a medical monitoring class, comprising almost any person who has had exposure to a targeted product, is approved. The risks can be further enhanced by the impact of litigation, concerning the adverse health effects of a product, on the public image of the product and the manufacturer. Plaintiffs may also attempt to shift the financial and logistical burdens of identifying the "worried well" to defendants.

Manufacturers of products sold in the United States can expect to see plaintiffs press more claims involving medical monitoring. Defending such claims may be expensive, time-consuming and often may involve significantly increased litigation risk. Product manufacturers, therefore, must be prepared to address the potential threat posed by this new breed of tort claim.

[Author note]

Fern O'Brian received her law degree from the Georgetown University Law Centre, and served as a law clerk to former Judge Kenneth W Starr on the US Court of Appeals for the District of Columbia Circuit. Ms O'Brian joined Arnold & Porter in 1984 and became a partner in 1991. She has litigated a variety of general commercial, product liability, and environmental toxic tort matters, including cases involving tobacco, medical, and pharmaceutical products. She represents a national blood collection organization in cases involving transfusions and transmitted diseases. She also counsels clients on product liability prevention, regulatory matters, and business transactions involving product liability issues. Ms O'Brian is co-chair of the Environment and Mass Tort Subcommittee of the ABA Section of Litigation's Product Liability Committee, and co-chairs the ABA's National Institutes on Class Actions. She is a member of the American Law Institute and the Charles Fahy American Inn of Court.

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Sep 7, 1999

DOCUMENT-IDENTIFIER: US 5950169 A

TITLE: System and method for managing insurance claim processing

US PATENT NO. (1):
5950169Detailed Description Text (29):

The vehicle data tab includes general descriptive information, options, and damage. Vehicle data also could include categories for additional considerations and condition. General descriptive information may be entered by the user such as vehicle identification number, year, make, type, body style, engine size, odometer reading, color, etc. A vehicle options selection allows the user to specify whether the damaged vehicle was equipped with a particular type of sunroof or other roof type, to specify whether it was equipped with power accessories, and to identify the type of transmission. Other options may also be included. Damage information includes the car's overall condition, i.e., driveable or not; areas of primary and secondary impact; and additional damage particulars. Again, the categories of information just enumerated are enterable by the user using the graphic user interface.

Detailed Description Text (60):

FIG. 16 illustrates one claim processing scenario that may be addressed with the presently preferred system and method with a damaged car driveable to a body shop employing a direct repair program (DRP). After damage to or loss of the car, the insured calls 401 the insurance company, and the insurance company suggests 402 a DRP body shop and informs the insured of car rental options. The insured drives 403 the car to the DRP body shop. The home office sends a claim assignment to the mailbox of the DRP in the Communications server. The body shop accesses the assigned claim and sets up a work file as described above. Using the method described above, the body shop prepares a computerized estimate. The body shop also takes electronic images of the car and keeps the estimate and images on local storage, for example a disk drive, or sends the estimate and images to a library for storing. The body shop then creates 404 a computer Estimate-Of-Record (EOR) and e-mails via the out box, as part of a work file, the EOR and electronic images to the insurance company. The insurance company receives 405 the e-mail of the EOR and the electronic images, prepares a work order, and e-mails, as part of a work file, an authorization number or work order number to the body shop. The body shop reviews 406 the estimate with the insured and receives repair authorization. The insured signs 407 the work order and schedules repair work with the body shop.

Detailed Description Text (61):

The body shop searches 408 for Like Kind and Quality (LKQ) parts, using the procedure shown in FIG. 18 and/or searches 408 for new or aftermarket (A/M) parts, using the procedure shown in FIG. 19. The term LKQ is used herein to refer to recycled/salvaged parts. The body shop repairs 408 the damaged car using the procedure shown in FIG. 20.

Detailed Description Text (66):

After the Estimate Requires Supplements procedure is performed, the body shop continues with the repairs. The body shop searches 414 for Like Kind and Quality (LKQ) parts, using the procedure shown in FIG. 23, and/or searches 414 for new or aftermarket (A/M) parts, using the procedure shown in FIG. 24, and repairs 414 the damaged car, using the procedure shown in FIG. 22.

Detailed Description Text (71):

The body shop searches 438 for Like Kind and Quality (LKQ) parts, using the procedure shown in FIG. 23, and/or searches 438 for new or aftermarket (A/M) parts, using the procedure shown in FIG. 24. The body shop receives the necessary parts, confirms

scheduled repairs, and repairs 438 the damaged car, using the procedure shown in FIG. 20.

Detailed Description Text (75):

The body shop keeps the estimate and electronic images on local storage, for example a disk drive, or sends the estimate and images to a library for storing; and reviews 458 the estimate with the insured. After the insured authorizes 459 payment for repairs, the insurance company sends 460 an authorization number or a work order number to the body shop, and the body shop searches 461 for Like Kind and Quality (LKQ) parts, using the procedure shown in FIG. 24, and/or searches 461 for new or after-market (A/M) parts, using the procedure shown in FIG. 25. The body shop then receives all of the necessary parts, confirms scheduled repairs, and repairs 461 the damaged car, using the procedure shown in FIG. 20.

Detailed Description Text (76):

In each of the described damage scenarios, whether the car is driveable or not driveable, and whether the body shop is a DRP shop or a non-DRP shop, as illustrated in FIGS. 16-20, upon authorization for repairs, the body shop searches and obtains the necessary parts for repairs and performs a repair scenario as illustrated in FIG. 20. The body shop repairs 465 the car. The body shop then takes 466 digital images of the repairs, storing these images on local storage such as, for example, a disk drive, and notifies 466 the insured that the repaired car is ready. In addition, the body shop e-mails 466 a notification to the insurance company that the repairs are completed.

Detailed Description Text (78):

As illustrated in FIG. 21, if the damaged car were deemed 470 a Total Loss, a Total Loss scenario is performed. If the body shop is a non-DRP shop 471, an appraiser/adjuster determines 473 if the car is a Total Loss, and the appraiser/adjuster e-mails 473 an estimate and electronic images to the insurance company. However, if the body shop were a DRP shop 471, then the body shop determines 472 if the car is a Total Loss, and the body shop e-mails 472 the estimate, images, and any acquired charges to the insurance company, with acquired charges including tow charges, tear-down charges, and storage charges.

Detailed Description Text (81):

An Estimate Requires Supplements scenario is shown in FIG. 22. A body shop finds 480 additional damage, takes 481 electronic images, and prepares 481 computerized supplemental estimate using the method described in FIGS. 8A-8L.

Detailed Description Text (84):

An appraiser/adjuster receives and reviews 492 e-mail images, including images of the LKQ parts to determine, if LKQ parts should be used. The body shop reviews 493 the dismantler's electronic parts images, determines which parts to order, and e-mails an order to the dismantler. The dismantler pulls 494 requested parts from his/her inventory, prepares a parts order, and arranges delivery of parts to the body shop. Upon receipt of the delivered parts, the body shop inspects 495 the parts for damage, correctness, and completeness. The body shop e-mails 495 to the dismantler directions to re-ship any alternative parts, and arranges to return any damaged parts.

Detailed Description Text (87):

The parts dealer or A/M distributor pulls 555 the available parts, prepares a parts order, and arranges delivery to the body shop. Upon delivery, the body shop inspects 556 the parts for damage, correctness, and completeness. The body shop e-mails 556 a message to the dealer to re-ship any alternative parts, and the body shop arranges to return any damaged parts to the dealer.

Detailed Description Text (89):

As illustrated in FIG. 25, the body shop may also perform a scenario with a damaged car abandoned 560 by the owner/insured. If the car were abandoned 561 before the body shop begins repairs due to the body shop having never been authorized to begin repairs, then the body shop takes 562 electronic images of the car, and attempts to lien sell the car. The body shop accordingly E-mails 563 images and information about the car to salvage yards, other body shops, etc. The body shop also contacts 564 a specific salvage yard, and perform 569 the Total Loss Scenario as shown in FIG. 21.